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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

COMPLAINT

- against -

(T. 18, U.S.C. § 2252(a)(2))

JAROSLAW POGODA,

Defendant.

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EASTERN DISTRICT OF NEW YORK, SS:

LESLIE ADAMCZYK, being duly sworn, deposes and states that she is a Special Agent with the Federal Bureau of Investigation ("FBI"), duly appointed according to law and acting as such.

On or about and between February 3, 2015 and February 19, 2015, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, the defendant JAROSLAW POGODA did knowingly receive and distribute any visual depiction, the production of such visual depiction having involved the use of one or more minors engaging in sexually explicit conduct and such visual depiction was of such conduct, using any means or facility of interstate or foreign commerce or that has been mailed, or has been shipped or transported in or affecting interstate or foreign commerce or which contains materials which have been mailed or so shipped or transported, by any means including by computer.

(Title 18, United States Code, Section 2252(a)(2)).

The source of your deponent's information and the grounds for her belief are as follows:

1. I am a Special Agent with the Federal Bureau of Investigation ("FBI"). I have been employed by the FBI since August 2012. I have been assigned to investigate violations of criminal law relating to the sexual exploitation of children. I have gained expertise in this area through training in classes and daily work related to these types of investigations. As a result of my training and experience, I am familiar with the techniques and methods of operations used by individuals involved in criminal activity to conceal their activities from detection by law enforcement officers. As part of my responsibilities, I have been involved in the investigation of numerous child pornography cases and have reviewed thousands of photographs depicting children (less than eighteen years of age) being sexually exploited by adults. Through my experience in these investigations, I have become familiar with methods of determining whether a child is a minor.

2. I am familiar with the information contained in this affidavit based on my own personal participation in the investigation, my review of documents, my training and experience, and discussions I have had with other law enforcement personnel concerning the creation, distribution and proliferation of child pornography. Additionally, statements attributable to individuals herein are set forth in sum and substance and in part.

3. Peer to Peer ("P2P") file sharing is a method of communication available to Internet users through the use of special software. Computers linked together through the Internet using this software form a network that allows for the sharing of digital files between users on the network. A user first obtains the P2P software, which can be downloaded from the Internet. In general, P2P software allows the user to set up file(s) on a computer to be

shared with others who are running compatible P2P software. Bittorrent is one type of P2P software, which sets up its searches by keywords, typically on torrent websites. Bittorrent programs are typically free to download and are used for the exchange of files between computer users.

4. A user can use the software to perform a keyword search over the Internet. The results of a keyword search are displayed to the user via a website. The website itself does not contain the actual files intended to be shared, but instead provides a “torrent” file. A torrent is a small file that describes the files to be shared and provides details allowing the user to identify which of the available files he or she may wish to access. The user then selects which torrent file(s) from among the results to download. This torrent file contains download instructions for the user to download the file(s) referenced in the torrent that he/she wishes to access. The file can be downloaded through a direct connection between the computer requesting the file(s) and the computer(s) sharing the file(s). For example, a person interested in obtaining child pornography images could open the bittorrent website on his/her computer and conduct a keyword search for files using a term such as “preteen sex.” The results of the search would then be returned to the user’s computer and displayed on the torrent site. The user then selects a torrent from among the results displayed corresponding to the file(s) he/she wants to download. Once the torrent file is downloaded, a previously-installed bittorrent program is used to access the file content. The torrent file provides the set of instructions that the bittorrent program needs to find the files identified in the torrent file. The file(s) are then downloaded directly from the sharing computer(s). The downloaded file(s) are stored in an area designated by the user and/or the software. The downloaded file(s) will remain in that location until moved or deleted.

5. One of the advantages of P2P file sharing is that multiple files may be downloaded in parallel. This means that the user can download more than one file at a time. In addition, a user may download parts of one file from more than one source computer at a time. For example, a bittorrent user downloading an image file may actually receive parts of the image from multiple computers. The advantage of this is that it speeds up the time it takes to download the file.

6. A P2P file transfer is assisted by reference to an IP address. This address is unique to a particular computer during an online session. The IP address provides a unique location, making it possible for data to be transferred between computers.

7. The computer running the file sharing application, in this case a bittorrent application, has an IP address assigned to it while it is connected to the Internet. Bittorrent users are able to see the IP address of any computer system sharing files with them or receiving files from them. When investigating subjects who share or access child pornography via P2P applications, investigators log the IP address that has sent them files or information regarding files being shared. Investigators can then search public records that are available on the Internet to determine the internet service provider who has assigned that IP address. Based upon the IP address assigned to the computer sharing files, subscriber information can be obtained from the internet service provider.

8. Between the dates of February 3, 2015 and February 19, 2015, an FBI Special Agent working in an undercover capacity (the "Undercover Agent"), used a bittorrent application via an internet-connected computer located within the FBI New York Division to conduct undercover investigations into the Internet distribution and possession of child pornography. During this investigation, a computer that was sharing child pornography was

located on the bittorrent files sharing network. The Undercover Agent downloaded 442 files in their entirety from a sharing client. The sharing client's IP address was recorded along with the date and time of the file transfer. The sharing client reported that it was using bittorrent client -TL6400-Tribler/6.4.0. Your Affiant reviewed the files downloaded. Almost all of the files depicted children engaged in sexually explicit conduct.

9. Several of these files, which are available for the Court's review, are described as follows:

- a. 0yo-g-07-01 is an image of an infant's anus being penetrated by an adult penis.
- b. baby girl riding dads dick 2 is an image of a prepubescent girl, approximately 4 years old whose vagina is being penetrated by an adult penis.
- c. __hr_tiny girls005 is an image depicting an infant's anus being penetrated by an adult penis.
- d. Megan gets Pussy spread is an image of an approximately 3 year old toddler with her anus and vagina being exposed by an adult hand.
- e. 000006 is a video file depicting an approximately 4 year old female's anus being penetrated by an adult penis.

10. The IP address assigned to the computer sharing the above files was 108.29.156.252 at the dates and times referenced above. The bittorrent application used by the FBI captures the IP address from which the files were sent. All of the above files were downloaded from the IP address 108.29.156.252. When users on this file sharing network download files, the computers sharing files can be identified by their IP addresses. Investigators can view and describe the completely downloaded files.

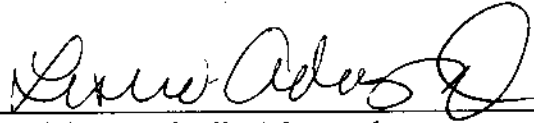
11. A check of publicly available records located online by an organization known as the American Registry of Internet Numbers ("ARIN"), revealed that the aforementioned IP address was assigned to the internet service provider Verizon Internet Services. Records obtained from Verizon Internet Services by administrative subpoena showed that the IP address 108.29.156.252, at the dates and times referenced above, was subscribed to "ANDRJEZ POGODA." The physical address associated with this IP address and ANDRJEZ POGODA is located in Maspeth, New York (the "Maspeth Address"). Information obtained from the United States Postal Service revealed the names ANDRZEJ POGODA and MARTA POGODA listed at the address. Records and information obtained from Con Edison revealed an active Con Edison account under the name ANDRZEJ POGODA, which has been active since May 2010.

12. The defendant and other family members were present when FBI executed a search warrant at the Maspeth Address. Agents provided a copy of the search warrant and items to be seized to the defendant to read. The agents informed the defendant that they were there to execute the search warrant. Agents advised the defendant of his Miranda rights. He stated that he understood his rights, signed a written Miranda waiver form and indicated that he wanted to speak to agents without a lawyer present.

13. The defendant subsequently advised agents, in sum and substance and in part, that he lived at the Maspeth Address and searched for and downloaded images of child pornography. The defendant admitted to using P2P software to obtain and view child pornography.

14. FBI agents then placed the defendant under arrest.

WHEREFORE, your deponent respectfully requests that the defendant
JAROSLAW POGODA be dealt with according to law.



Special Agent Leslie Adamczyk
Federal Bureau of Investigation

Sworn to before me this
17th day of March, 2014



S/ James Orenstein

THE HONORABLE JAMES ORENSTEIN
UNITED STATES MAGISTRATE JUDGE
EASTERN DISTRICT OF NEW YORK